

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

[R07-70]

PREAMBLE

- 1. Sections Affected**

Article 11	<u>Rulemaking Action</u>
R4-7-1102	Amend
R4-7-1103	Amend
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-904(B)(2)
Implementing statute: A.R.S. § 32-926(A)(2)
- 3. A list of all previous notices appearing in the *Register* addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 13 A.A.R. 122, January 12, 2007
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name:	Patrice A. Pritzl, Executive Director
Address:	5060 N. 19th Ave., Ste. 416 Phoenix, AZ 85015-3210
Telephone:	(602) 864-5088
Fax:	(602) 864-5099
E-mail:	merriejoh@earthlink.net
- 5. An explanation of the rule, including the Agency's reasons for initiating the rule:**

The rule amendment will require registration of chiropractic assistants with the Board within seven days of hire, require training to begin within one month after hire, change the number of hours of required training for chiropractic assistants who work under the supervision of a doctor of chiropractic who is certified to perform acupuncture, define the scope of practice of a chiropractic assistant, specify those duties that a chiropractic assistant shall not perform, and restrict a person who has a revoked, suspended or denied license from being a chiropractic assistant.
- 6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:**

Not applicable
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

Current rule already requires that chiropractic assistants be registered with the board and require that the assistant be trained. Therefore, the amendments will have little economic impact beyond that under current rule. The reduction of hours for training in acupuncture will benefit those chiropractors who are certified to perform acupuncture by reduc-

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ing training costs by approximately \$150. The definition of scope of practice of a chiropractic assistant is based on generally accepted professional standards and are for clarification purposes. In this regard, there is no economic impact anticipated in relation to definition of scope of practice. The amendment restricting a person who has had a license revoked, suspended or denied from being a chiropractic assistant has no economic impact since it cannot be presumed that such a person would be employed as, or have a right to be employed as, a chiropractic assistant.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement.

Name: Patrice A. Pritzl, Executive Director
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10. The time, place and nature of the proceedings for adoption, amendment, or repeal of the rule or, if no proceeding is scheduled when, where, or how persons may request an oral proceeding on the proposed rule:

Written comment will be accepted at the Board office, 5060 N. 19th Ave., Ste. 416, Phoenix, AZ, 85015 on a business day between the hours of 8:00 a.m. and 5:00 p.m. until May 9, 2007. An oral proceeding is not scheduled but may be requested.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

12. Incorporation by reference and their location in the rules:

Not applicable

13. The full text of the rules as follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 7. BOARD OF CHIROPRACTIC EXAMINERS

ARTICLE 11. CHIROPRACTIC ASSISTANTS

Section

R4-7-1102. Chiropractic Assistant Training

R4-7-1103. Scope of Practice

ARTICLE 11. CHIROPRACTIC ASSISTANTS

R4-7-1102. Chiropractic Assistant Training

- A. A C.A. shall complete 24 clock hours of coursework, with a minimum of four hours in each of the following subjects: chiropractic principles, management of common diseases, history taking, recordkeeping, professional standards of conduct, and CPR. If a chiropractor supervising a C.A. is certified in ~~a specialty physiotherapy~~ under A.R.S. § 32-922.02, the C.A. shall complete 12 hours of additional training in ~~that specialty physiotherapy~~. If a chiropractor supervising a C.A. is certified in acupuncture under A.R.S. § 32-922.02, the C.A. shall complete two hours of additional training in acupuncture.
- B. A C.A. shall take coursework from a Board-approved facility or chiropractor. The facility or chiropractor providing coursework shall submit documentation that describes each subject listed in subsection (A) to the Board for approval prior to offering the course.
- C. A doctor of chiropractic shall register a C.A. with the Board within seven days of hire as a C.A. by submitting the name of the C.A., the name and license number of the supervising chiropractor, the address and phone number where the C.A. is employed and the initial date of hire. A C.A. shall begin Board-approved coursework within ~~three months~~ one month of initial employment with a supervising chiropractor, and shall complete the coursework within one year of initial employment with the supervising chiropractor.
- D. A C.A. shall register with the Board or its designee upon completing required coursework. A C.A. shall submit a separate registration form for each place of employment and supervisor. A C.A. shall submit documentation to the Board or its designee on a Board-approved form, signed by the supervising chiropractor, showing the date that the C.A. completed each required subject. The Board shall issue the C.A.'s registration upon approval of the registration form.
- E. A chiropractor supervising a C.A. shall maintain at the C.A.'s place of employment a copy of the C.A.'s registration.

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R4-7-1103. Scope of Practice

- A. A C.A. ~~shall~~ may only perform only tasks clinical duties that are:
1. Consistent with a supervising chiropractor's licensure and certification; and
 2. Delegated by the supervising chiropractor.
 3. Clinical duties may include asepsis and infection control, taking patient histories and vital signs, performing first aid and CPR, preparing patients for procedures, assisting the supervising chiropractor with examinations and treatments, and collecting and processing specimens as directed by the supervising chiropractor. A chiropractic assistant that meets the education requirements for physiotherapy may administer, under the direct supervision of a certified doctor of chiropractic, whirlpool treatments, diathermy treatments, electronic gavlantion stimulation treatments, ultrasound therapy, massage therapy, traction treatments, transcutaneous nerve stimulation unit treatments, and hot and cold pack treatments. Internet A chiropractic assistant that meets the education requirements for acupuncture may prepare and sterilize instruments and may remove acupuncture needles under the direct supervision of a certified doctor of chiropractic.
- B. A C.A. shall not; ~~take~~ Take an x-ray, perform an independent examination, diagnose a patient, determine a regimen of patient care, change the regimen of patient care set by the supervising chiropractor, administer diagnostic tests, perform an adjustment or perform acupuncture by needle insertion.
- C. A person who has had a license to practice chiropractic or any other health care profession suspended, revoked or denied in this or any other jurisdiction shall not perform the clinical duties of a chiropractic assistant.
- D. As per A.R.S. § 32-900(3), a chiropractic assistant shall not be licensed to practice chiropractic in this or any other jurisdiction.
- ~~E.~~ A supervising chiropractor shall be responsible for all acts or omissions of a ~~supervised~~ C.A.
- ~~D.~~ E. A person who does not meet the coursework requirements of R4-7-1102 shall perform only clerical or administrative duties.

NOTICE OF PROPOSED RULEMAKING

TITLE 6. ECONOMIC SECURITY

**CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY
UNEMPLOYMENT INSURANCE**

[R07-71]

PREAMBLE

- | | |
|-----------------------------------|---------------------------------|
| <u>1. Section Affected</u> | <u>Rulemaking Action</u> |
| R6-3-5475 | Amend |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statutes: A.R.S. §§ 41-1954(A)(1)(a) and 41-1954(A)(3)
Implementing statutes: A.R.S. § 23-772(A)
- 3. A list of all previous notices appearing in the Register addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 2568, July 21, 2006
Notice of Emergency Rulemaking: 12 A.A.R. 3808, October 13, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding this rule:**
- | | |
|------------|---|
| Name: | Beth Broeker |
| Address: | Department of Economic Security
P.O. Box 6123, Site Code 837A
Phoenix, AZ 85005 |
| Telephone: | (602) 542-6555 |
| Fax: | (602) 542-6000 |
| E-mail: | bbroeker@azdes.gov |
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**

Notices of Proposed Rulemaking

This Notice of Proposed Rulemaking is being filed simultaneously with a Notice of Emergency Rulemaking to initiate the formal rulemaking process, as required under A.R.S. § 41-1026. The emergency rules initially became effective on September 8, 2006, and were published on October 13, 2006.

The Arizona Department of Economic Security administers the state Unemployment Insurance (UI) program, authorized under Titles II and IX of the Social Security Act, the Federal Unemployment Tax Act, and Arizona Revised Statutes, Title 23, Chapter 4.

Prior to the effective date of the original Notice of Emergency Rulemaking, R6-3-5475 restricted the methods of filing an initial UI claim and a weekly UI claim to in person, by mail, or by telephone. The emergency rules amendment accomplished three things. First, it allowed the Department to accept initial and weekly claims through the Internet. Second, it allowed the Department to limit the available methods of filing due to budgetary restrictions or program needs. Finally, the amendment described how the Department will notify the public of the currently available method or methods of filing.

6. A reference to any study that the agency proposes to rely on in its evaluation of or justification for the rules and where the public may obtain or review the study, all data underlying each study, any analysis of the study, and other supporting material:

Not applicable

7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The preliminary summary of the economic, small business, and consumer impact:

This rulemaking will not significantly impact small business or consumers. It will add Internet filing to the available methods of filing UI claims. In addition, the rule allows the Department to restrict the available methods of filing due to budgetary crisis or program need. If so, it will still be possible for all workers to file a claim, and the Department will notify workers about the then available method or methods of filing.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Beth Broeker
Address: Department of Economic Security
P.O. Box 6123, Site Code 837A
Phoenix, AZ 85005
Telephone: (602) 542-6555
Fax: (602) 542-6000
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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

The Department will schedule an oral proceeding if an individual submits a written request to the person listed in item 4 above.

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

Not applicable

13. The full text of rules follows:

TITLE 6. ECONOMIC SECURITY

**CHAPTER 3. DEPARTMENT OF ECONOMIC SECURITY
UNEMPLOYMENT INSURANCE**

ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT

Section
R6-3-5475. Claims and Registration

ARTICLE 54. BENEFIT CLAIMS, COMPUTATION, EXTENSION, AND OVERPAYMENT

R6-3-5475. Claims and Registration

A. Definitions. In this Article:

1. "Department" means the Arizona Department of Economic Security, and any other entity that has an agreement with the Department to provide unemployment insurance and reemployment services.
2. "Itinerant service" means unemployment insurance claims service on a regularly scheduled, but less than full-time basis to a locality not within a reasonable commuting distance of an established, full-time claims office.
3. "Personal Identification Number" means a four-digit number selected by the claimant and entered by the claimant into the unemployment insurance telephone claims filing system.

B. Initial claims. A person claiming unemployment insurance benefits shall:

1. File an initial claim with the Department:
 - a. In writing, using an application provided by the Department at an office that accepts unemployment insurance claims. A claimant may also request and submit an application by mail; ~~or~~
 - b. By telephone, using a toll-free number provided by the Department via local telephone directories and informational flyers; or
 - c. By Internet, using the service maintained for that purpose on the Department's web site.
2. The Department may limit the available methods of filing according to budgetary constraints or program needs. The Department shall provide information on how to file an initial claim on its web site, in its employment offices, and in employment offices operated by other public agencies throughout the state.

~~2-3.~~ Include the following information on the initial claim:

- a. ~~The claimant's personal~~ Personal identifying information ~~about the claimant,~~ including name, aliases, birth date, address, telephone number, occupation, ~~social security~~ Social Security number, and citizenship status;
- b. The claimant's employment history, including identifying information on the claimant's last employer, the claimant's last date of work, the reason for the claimant's separation from employment; ~~or a statement as to whether the last work was part-time;~~
- c. A statement that the claimant is totally or partially unemployed, and information on the claimant's potential for employment, including:
 - i. A description of the circumstances under which the claimant is willing to accept employment; and
 - ii. The claimant's restrictions to accepting employment;
- d. A statement of other benefits the claimant has obtained or is seeking, including workers' compensation, ~~social security~~ Social Security, retirement benefits, unemployment benefits from another state, and employment benefits such as accrued vacation pay;
- e. An acknowledgment that the claimant may be subject to penalty for provision of false statements or information; and
- f. The claimant's signature or personal identification number.

C. Registration; exemptions. A claimant who files a claim satisfies the registration for work requirements of A.R.S. § 23-771(A)(1). The Department shall not require ~~no~~ further registration efforts by a claimant who:

1. Is unemployed due to a labor dispute at the establishment of the claimant's employer, but intends to return to work for the employer when the dispute ends;
2. Is temporarily laid off from employment for a known duration of not more than 30 days and has been notified of the date to return to work;
3. Is residing in a geographic area in which the Department does not provide placement services;
4. Is registered for work with a labor union through which workers in the claimant's occupation normally obtain work;
5. Is enrolled in a training course that meets the requirements of A.R.S. § 23-771.01. and A.A.C. R6-3-1809; or
6. Is laid off from employment because of the seasonal nature of the claimant's occupation, and the Department has determined that no current placement opportunities exist for the claimant. When the season for the claimant's occupation resumes, the claimant shall register with the Department's employment service.

D. Effective date of claim. Except as otherwise provided in this Section, an initial claim for benefits is effective on the ~~1st~~ first day of the calendar week in which the claimant files a claim.

1. An initial claim for benefits filed at a biweekly itinerant service point is effective on the ~~1st~~ first day of the prior calendar week if the claimant's unemployment began in that week and the claimant reported to file the claim at the itinerant service point on the next regularly scheduled service date.
2. An initial claim filed by mail is effective on the ~~1st~~ first day of the calendar week in which the claimant requests the claim forms, if the claimant returns the completed forms within 7 seven days of the date that the Department mailed or provided the forms to the claimant. In all other cases where the claimant files by mail, the effective date is the ~~1st~~ first day of the calendar week that the claimant mails in which the completed forms are mailed to the Department. The mailing date is the ~~date shown on the envelope~~ postmark date.

E. Earlier effective dates. The Department may give the claim an effective date earlier than the dates described in subsection

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- (D) if:
1. The claimant shows that the Department gave the claimant incorrect information that caused the claimant to delay filing the claim;
 2. The claimant was unable to timely file a claim because the Department did not provide accessible claim services; or
 3. The claimant filed a timely claim against another state and:
 - a. ~~the~~ The claim was later cancelled or denied; or
 - b. ~~the~~ The claimant did not qualify for benefits in the other state.
- F. Cancellation of claims. At the request of a claimant, the Department may cancel a claim that has established a benefit year ~~if, in any of the following circumstances:~~
1. ~~If the~~ The claimant:
 - a. Has filed a combined wage claim; or
 - b. Has sufficient wage credits in another state to qualify for a claim; and
 - c. Requests cancellation within 15 days of the most recently issued monetary determination; and
 - d. Repays, or agrees to repay, any benefits received from the Arizona claim;
 2. ~~If the~~ The claimant is ineligible for benefits because the claimant earned wages in the base period from an employer who contributed to or maintained the claimant's pension plan, and the wages will not be in the base period of a subsequent claim;
 3. ~~If the~~ The claimant:
 - a. Initiates a claim during the final week of a benefit calendar quarter;
 - b. Will be eligible for a higher weekly benefit amount in the following benefit calendar quarter; and
 - c. Requests cancellation within 7 seven days of the start of the new benefit calendar quarter;
 4. Except as provided in subsections (F)(1) through (3), ~~if~~ the claimant initiates a claim but does not file for a week of unemployment, and the claimant will qualify for a higher weekly benefit amount in a subsequent benefit calendar quarter; or
 5. The claimant shows that the Department provided the claimant with incorrect information regarding the claimant's potential eligibility at the time the claim was initiated.
- G. Continued claim for benefits. Except as otherwise provided in A.R.S. §§ 23-761 through 23-766 and A.A.C. R6-3-1405 and A.A.C. R6-3-1809, for each week of unemployment claimed, a claimant shall timely file a continued claim for benefits, or waiting period credit, on a form provided by the Department, ~~or~~ by telephone, or through the Internet.
1. The Department may limit the available methods of filing these claims according to budgetary constraints or program needs. The Department shall provide each claimant with instructions on how to file continued claims at the time the initial claim is filed.
 - ~~1-2.~~ A continued claim shall include the following information for the applicable claim period:
 - a. A statement of any employment the claimant held, and any wages the claimant earned;
 - b. A statement as to the claimant's ability to work, availability for work, and efforts to seek work;
 - c. A statement as to whether the claimant received or refused any offers of work;
 - d. A statement that the claimant understands and acknowledges that the claimant has a duty to notify the Department of changes in any circumstances that may affect the claimant's eligibility for benefits; and
 - e. The claimant's signature or personal identification number.
 - ~~2-3.~~ A claim is timely filed when the Department receives the claim within 14 days of the benefit week ending date. If the claim is mailed, the claim is timely if postmarked within 14 days of the benefit week ending date.
- H. Untimely claims. The Department shall disallow an untimely claim unless
1. The untimeliness was due to Department error; or
 2. The claimant establishes good cause for the untimeliness. As used in this Section "good cause" means that the untimeliness was due to a circumstance beyond the reasonable control of the claimant.
 3. Notwithstanding any other provision of this Section, when the untimely claim is the first occurrence in a benefit year, the Department shall not disallow the claim unless the Department finds that the untimeliness was willful. Willfulness is established if:
 - a. The claimant files the claim more than 7 seven days after the 14-day period specified in ~~paragraph (G)(2) subsection (G)(3), and~~
 - b. The Department has clear and convincing proof that the claimant knew of the filing requirements and deliberately chose to ignore them.
- I. Adjudication and eligibility interviews.
1. The Department may require a claimant to participate in a:
 - a. ~~Participate in a determination~~ Determination fact-finding proceeding, if an issue arises regarding eligibility; or
 - b. ~~Participate in a periodic~~ Periodic eligibility review, when a claimant has claimed benefits for at least two weeks.
 2. The Department shall give the claimant not less than 5 five calendar days prior written notice if it schedules a proceeding or review.
 3. Except as otherwise provided in this subsection, a claimant who fails to report in person or be available via telephone,

~~as on a scheduled,~~ ~~for a~~ proceeding or interview date is ineligible for benefits for the week in which the appointment was scheduled, until the claimant reports to the Department.

- a. The Department shall not hold the claimant ineligible if:
 - i. The claimant reports within ~~3~~ three work days of the scheduled interview; or the end of the same calendar week, whichever ~~1st~~ first occurs; or
 - ii. The claimant ~~had~~ has good cause for the failure to report.
- b. As used in this subsection, good cause includes the following circumstances:
 - i. The claimant was ill,
 - ii. The claimant lacked transportation to the appointment,
 - iii. The claimant had a job interview or work that precluded the claimant from keeping the appointment, or
 - iv. Other similar circumstances beyond the reasonable control of the claimant.

J. Reemployment services.

1. The Department may require a claimant to participate in a reemployment service program if the Department determines that the claimant:
 - a. Is likely to exhaust regular unemployment compensation benefits; and
 - b. Needs job search assistance services to make a successful transition to new employment.
2. If a claimant who is required to participate in reemployment services fails to report to a reemployment service provider, or to fulfill the requirements of the claimant's reemployment service plan, the claimant is ineligible for benefits for the week during which the act of non-participation occurred, unless the claimant establishes good cause for non-participation. Good cause includes the circumstances listed in subsection (I)(3)(b).